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 of all others similarly situated

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

RICHARD A. SILBER, an individual and on)
 behalf of all others similarly situated,)
 Plaintiff,)
 vs.)
 SHOP-VAC CORPORATION, a Pennsylvania)
 Corporation, and DOES 1 through 100,)
 inclusive,)
 Defendants.)

CASE NO. 3:08CV00637-JLS-RBB

CLASS ACTION

**PLAINTIFF'S EVIDENTIARY
 OBJECTIONS TO PROFFERED
 EVIDENCE SET FORTH IN
 DEFENDANT'S MOTION TO DISMISS
 FIRST AMENDED COMPLAINT**

ACCOMPANYING DOCUMENTS:
 Plaintiff's Opposition to Motion to Dismiss
 First Amended Complaint

Date: September 4, 2008
 Time: 1:30 p.m.
 District Judge: Janis L. Sammartino
 Fl./Room: 3/6

**[ORAL ARGUMENT NOT REQUIRED]
 [Civil Rule 7.1(d)(2)]**

1 Plaintiff RICHARD A. SILBER ("Plaintiff") respectfully objects to and seeks an order
2 striking the following proffered evidence set forth in defendant SHOP-VAC
3 CORPORATION's ("Shop-Vac") Motion to Dismiss the First Amended Complaint.

4 **EVIDENTIARY OBJECTIONS TO PROFFERED EVIDENCE SET FORTH IN**
5 **DEFENDANT'S MOTION TO DISMISS**

6 1. Page 2, Lines 15-16 and Footnote 1 on Page 3 ("Shop-Vac, with factories in
7 Pennsylvania and New York employing hundreds of American workers....¹" and "¹ Shop-Vac
8 also maintains a plant in China which labels its goods "Made in China.")

9 Objection. Plaintiff objects to this portion of the Motion to Dismiss as there is no
10 evidentiary basis set forth in support of these purported "factual" contentions. As such, Plaintiff
11 objects because the statements lack foundation and are tantamount to inadmissible hearsay. Fed.
12 R. Evid. 901, 801.

13 **CONCLUSION**

14 Plaintiff respectfully requests that the Court sustain the above objections and strike the
15 proffered evidence referenced above as Shop-Vac fails to set forth the necessary foundation to
16 establish admissible evidence.

17 Dated: August 21, 2008

Respectfully submitted,

18 DEL MAR LAW GROUP, LLP

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23 Attorney for Plaintiff RICHARD A. SILBER, an
24 individual and on behalf of all others similarly
25 situated
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